

## Office of the Secretary of Defense

## § 311.3

of either the reports required by paragraph (p) of the Privacy Act, or Section 3514 of Pub. L. 96-511.

8. *Use of Contractors.* Matching programs should, as far as practicable, be conducted “in-house” by federal agencies using agency personnel, rather than by contract. When contractors are used, however,

a. The matching agency should, consistent with paragraph (m) of the Privacy Act, cause the requirements of that Act to be applied to the contractor’s performance of the matching program. The contract should include the Privacy Act clause required by Federal Personnel Regulation Amendment 155 (41 CFR 1-1.337-5);

b. The terms of the contract should include appropriate privacy and security provisions consistent with policies, regulations, standards, and guidelines issued by OMB, GSA, and the Department of Commerce;

c. The terms of the contract should preclude the contractor from using, disclosing, copying, or retaining records associated with the matching program for the contractor’s own use;

d. Contractor personnel involved in the matching program shall be made explicitly aware of their obligations under the Act and of these guidelines, agency rules, and any special safeguards in relation to each specific match performed.

e. Any disclosures of records by the agency to the contractor should be made pursuant to a “routine use” (5 U.S.C. 552a(b)(3)).

F. *Implementation and Oversight.* OMB will oversee the implementation of these guidelines and shall interpret and advise upon agency proposals and actions within their scope, consistent with section 6 of the Privacy Act.

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57801, Nov. 14, 1991]

### PART 311—OSD PRIVACY PROGRAM

Sec.

311.1 Purpose.

311.2 Applicability and scope.

311.3 Definitions.

311.4 Policy.

311.5 Responsibilities.

311.6 Procedures.

311.7 Information requirements.

311.8 Procedures for exemptions.

AUTHORITY: Pub. L. 93-579, 88 Stat. 1986 (5 U.S.C. 552a).

SOURCE: 64 FR 22785, Apr. 28, 1999, unless otherwise noted.

#### § 311.1 Purpose.

This part updates and implements basic policies and procedures outlined in 5 U.S.C. 552a, OMB Circular A-130,<sup>1</sup> and DoD 5400.11-R<sup>2</sup> and provides guidance and procedures for use in establishing the Privacy Program in the Office of the Secretary of Defense (OSD) and those organizations assigned to OSD for administrative support.

#### § 311.2 Applicability and scope.

This part:

(a) Applies to the OSD, the Chairman of the Joint Chiefs of Staff, Uniformed Services University of the Health Sciences (USUHS) and other activities assigned to OSD for administrative support hereafter referred to collectively as “OSD Components.”

(b) Covers record systems maintained by OSD Components and governs the maintenance, access, change, and release of information contained in OSD Component record systems, from which information about an individual is retrieved by a personal identifier.

#### § 311.3 Definitions.

*Access.* Any individual’s review of a record or a copy of a record or parts of a system of records.

*Disclosure.* The transfer of any personal information from a system of records by any means of oral, written, electronic, mechanical, or other communication, to any person, private entity, or Government agency, other than the subject of the record, the subject’s designated agent, or the subject’s guardian.

*Individual.* A living citizen of the United States or an alien lawfully admitted to the United States for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf.

*Individual access.* Access to personal information pertaining to the individual, by the individual, his or her designated agent or legal guardian.

<sup>1</sup>Copies may be obtained by contacting EOP Publications, 725 16th Street, NW., NEOB, Washington, DC 20503.

<sup>2</sup>Copies may be obtained via internet at <http://web7.whs.osd.mil/corres.htm>.

#### § 311.4

#### 32 CFR Ch. I (7–1–01 Edition)

*Maintain.* Includes maintenance, collection, use or dissemination.

*Personal information.* Information about an individual that is intimate or private, as distinguished from information related solely to the individual's official functions or public life.

##### § 311.4 Policy.

(a) It is DoD policy to safeguard personal information contained in any system of records maintained by any DoD Component and to permit any individual to know what existing records pertain to him or her in any OSD Component covered by this part.

(b) Each office maintaining records and information about individuals shall ensure that their privacy is protected from unauthorized disclosure of personal information. These offices shall permit individuals to have access to, and to have a copy made of all, or any portion of records about them, except as provided in Chapters 3 and 5, DoD 5400.11–R, and to have an opportunity to request that such records be amended as provided by the Privacy Act of 1974 and Chapter 3 of DoD 5400.11–R. Individuals requesting access to their records shall receive concurrent consideration under 5 U.S.C. 552a and the Freedom of Information Act, as amended, if appropriate.

(c) Heads of OSD Components shall maintain any necessary record of a personal nature that is individually identifiable in a manner that complies with the law and DoD policy. Any information collected must be as accurate, relevant, timely, and complete as is reasonable to ensure fairness to the individual. Adequate safeguards must be provided to prevent misuse or unauthorized release of such information.

##### § 311.5 Responsibilities.

(a) The Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD) shall:

(1) Direct and administer the DoD Privacy Program for OSD Components.

(2) Establish standards and procedures to ensure implementation of and compliance with the Privacy Act of 1974, OMB Circular No. A–130, and DoD 5400.11–R.

(3) Designate the Director for Freedom of Information and Security Review

view as the point of contact for individuals requesting information of access to records and copies about themselves.

(4) Serve as the appellate authority within OSD when a requester appeals a denial for access to records under the Privacy Act.

(5) Serve as the appellate authority within OSD when a requester appeals a denial for amendment of a record or initiates legal action to correct a record.

(6) Evaluate and decide, in coordination with The General Counsel of the Department of Defense (GC, DoD), appeals resulting from denials of access or amendments to records by the OSD Components.

(7) Designate the Directives and Records Division, Correspondence and Directives Directorate, Washington Headquarters Services (WHS) as the office responsible for all aspects of the Privacy Act, except that portion about receiving and acting on public requests for personal records. As such, the Directives and Records Division shall:

(i) Exercise oversight and administrative control of the Privacy Act Program in OSD and those organizations assigned to OSD for administrative support.

(ii) Provide guidance and training to organizational entities as required by 5 U.S.C. 552a and OMB Circular A–130.

(iii) Collect and consolidate data from OSD Components, and submit an annual report to the Defense Privacy Office, as required by 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(iv) Coordinate and consolidate information for reporting all record systems, as well as changes to approved systems, to the OMB, the Congress, and the FEDERAL REGISTER, as required by 5 U.S.C. 552a, OMB Circular E A–130, and DoD 5400.11–R.

(v) Collect information from OSD Components, and prepare consolidated reports required by 5 U.S.C. 552a and DoD 5400.11–R.

(b) The Director for Freedom of Information and Security Review shall:

(1) Forward requests for information or access to records to the appropriate OSD Component having primary responsibility for any pertinent system of records under 5 U.S.C. 552a, or to